

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
ACCURATE PLASTICS, Inc.,

Appellant,

V.

PUGET SOUND AIR POLLUTION
CONTROL AGENCY,

Respondent.

PCHB Nos. 84-77, 84-78,
84-79 and 84-80

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

This matter, the appeal from the issuance of four \$250 civil penalties for the alleged violation of Regulation I, came before the Pollution Control Hearings Board, David Akana (presiding), Gayle Rothrock and Lawrence J. Faulk, on April 26, 1984.

Appellant was represented by its president, Jerry Johnson; respondent was represented by its attorney, Keith D. McGoffin. Olympia court reporter Alison Flechtner recorded the proceedings.

Having heard the testimony, having examined the exhibits, and having considered the contentions of the parties, the Board makes these

1 FINDINGS OF FACT

2 I

3 On January 12, 1984 at about 3:15 p.m., in response to a citizen's
4 complaint, respondent's inspector visited the Rodes residence in
5 Federal Way. There the inspector recognized an odor which he
6 associated with fiberglass manufacturing. The odor, described as
7 pungent and biting in nature, was pervasive and caused distress to the
8 complainant at his residence. The inspector located the source of the
9 odor at the business address of Accurate Plastics, Inc., 35703 16th
10 Avenue South in Federal Way.

11 After receiving a formal complaint from the citizen, the inspector
12 issued appellant a notice of violation for the alleged violation of
13 Section 9.11(a) of Regulation I.

14 II

15 At 3:20 p.m. on January 12, 1984, the inspector visited the Hall
16 residence in Federal Way in response to a complaint of odor. The
17 inspector noticed odor associated with fiberglass manufacturing and
18 ascertained that the source of the odor was from appellant's site. A
19 notice of violation of Section 9.11(a) was issued to appellant for the
20 odors noticed.

21 III

22 On January 13, 16, and 17, respondent's inspector returned to the
23 vicinity of the Rodes' residence in response to complaints. On each
24 visit he noticed an unpleasant, pervasive odor similar to his previous
25

visits. Each odor event was traced to appellant's site. Each
resulted in a notice of violation of Section 9.11(a).

IV

The odors physically suffered by residents caused headaches and
nausea to them as alleged. Additionally, the odors permeated the
residences and lingered outdoors, thereby reducing the use, enjoyment,
and benefit of their homes.

V

For the foregoing events, appellant was issued notices of
violation of Section 9.11(a) from which followed, on February 29,
1984, a \$250 civil penalty for each day's violation. An appeal of
each penalty was filed with the Board on March 15, 1984.

VI

Appellant does not refute the effects described by the residents.
Instead, appellant promises that plant improvements will reduce the
concentration of emissions to much lower levels. To accomplish this
reduction, the odor-causing plant operations will be relocated on
another area of the property in two new buildings. A dual filtration
system and a 54 foot exhaust stack will be installed. About \$150,000
will be spent on plant improvements. That portion of the cost of
plant improvements allocable to requirements imposed by Regulation I
was not separately stated.

VI

Pursuant to RCW 43.21B.260, respondent has filed a certified copy
of its Regulation I and amendments thereto which are noticed.

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW & ORDER
PCHB Nos. 84-77, -78, -79, -80

1 Section 9.11(a) makes it unlawful for any person to cause or
2 permit the emission of any air contaminant that causes detriment to
3 the health, safety, or welfare of any person.

4 Section 3.29 provides for a civil penalty up to \$250 per day for
5 each violation of Regulation I.

6 VII

7 Any Conclusion of Law which should be deemed a Finding of Fact is
8 hereby adopted as such.

9 From these Findings the Board comes to the following

10 CONCLUSIONS OF LAW

11 I

12 Appellant violated Section 9.11(a) on the days and times alleged.

13 II

14 Appellant has had previous violations of Regulation I for which
15 fines were paid. In view of the circumstances of this case and
16 appellant's past record, we conclude that the penalties are reasonable
17 in amount. In light of appellant's efforts to reduce air pollution
18 from its operations, one-half of the penalties should be suspended on
19 condition that there be no further violation of Regulation I for one
20 year.

21 III

22 Any Finding of Fact which should be deemed a Conclusion of Law is
23 hereby adopted as such.

24 From these Conclusions the Board enters this
25

26 FINAL FINDINGS OF FACT,
27 CONCLUSIONS OF LAW & ORDER
PCHB Nos. 84-77, -78, -79, -80

ORDER

Civil penalty Nos. 5957, 5958, 5959, and 5960 each for \$250 are affirmed, provided that payment of one-half of each penalty is suspended on condition that appellant not violate Regulation I for one year from the date of this Order.

DATED May 14, 1984.

POLLUTION CONTROL HEARINGS BOARD

David Akana
DAVID AKANA, Lawyer Member

Gayle Rothrock
GAYLE ROTHROCK, Chairman

Lawrence J. Faulk
LAWRENCE J. FAULK, Vice Chairman